

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

UNITED STATES, *et al.*,

*Plaintiffs,*

v.

GOOGLE LLC,

*Defendant.*

Civil Action No.1:23-cv-00108-LMB-JFA

**DEFENDANT GOOGLE LLC’S REPLY TO  
PLAINTIFFS’ STATUS REPORT RESPONSE**

Google files this short reply to Plaintiffs’ Response to Google’s Status Report (Dkt. 1517). In their response, Plaintiffs suggest that Google’s offer to produce nonsettlement materials, namely (1) Google’s response to the EC’s Statement of Objections (Remedy Chapter) and (2) Expert Report of Professor Jason Nieh, is insufficient because Google has represented that all responsive materials are settlement materials. That is not accurate.

First, Plaintiffs are aware (and have been well aware for some time) that Google made submissions to the EC outside of any settlement context and those submissions are responsive to RFP 2. *See, e.g.*, Dkt. 1477-6 at 2 (Google’s June 6 letter to Plaintiffs concerning RFP 2 and the EC materials, which Plaintiffs attached to their motion to compel, explicitly discusses non-settlement materials: “even if Plaintiffs only sought Google’s *non-settlement materials*, producing those materials from an ongoing, confidential foreign proceeding would be inappropriate, especially when they bear little relevance to laws and standards governing this case.”).

Second, as Google explained, the EC materials Plaintiffs are requesting “include”—but are not limited to—settlement materials: “while Plaintiffs claim they are not interested in ‘settlement proposals or negotiations about such proposals,’ . . . the EC-related materials they seek **include** exactly that.” Dkt. 1494 at 4 (emphasis added). Plaintiffs specifically highlighted this language in their reply in support of the motion to compel, arguing:

Because Plaintiffs are not seeking those documents, but instead factual statements Google made to the EC—**including statements outside of any potential settlement context**—CHS is inapt. And **Google implicitly concedes that these documents exist** when it notes that “the EC-related materials [Plaintiffs] seek *include* exactly that.” Opp. at 4.

Dkt. 1499 at 12 (third emphasis in original).

Third, as made transparent during the June 20 hearing, Plaintiffs are not limiting their request to factual statements made in submissions outside of the settlement context, they are also seeking documents provided in the context of settlement negotiations. June 20, 2025 Hr’g Tr. 22:12-18 (“That Google goes to European Commission -- and perhaps they do make a settlement proposal. Maybe they are in negotiations. We’re not interested in those documents, and [the requested documents] may be related to those. ***They may be in that context***, but they are factual representations.”).

In sum, Plaintiffs are wrong when they take one line out of context from a prior filing to suggest that Google’s offer to produce non-settlement materials to the EC “would not help resolve the present dispute.” Dkt. 1517 at 2.

Dated: June 30, 2025

Respectfully submitted,

Eric Mahr (*pro hac vice*)  
Andrew Ewalt (*pro hac vice*)  
Tyler Garrett (VSB # 94759)  
FRESHFIELDS US LLP  
700 13th Street, NW, 10th Floor  
Washington, DC 20005  
Telephone: (202) 777-4500  
Facsimile: (202) 777-4555  
eric.mahr@freshfields.com

/s/ Craig C. Reilly  
Craig C. Reilly (VSB # 20942)  
THE LAW OFFICE OF  
CRAIG C. REILLY, ESQ  
209 Madison Street, Suite 501  
Alexandria, VA 22314  
Telephone: (703) 549-5354  
Facsimile: (703) 549-5355  
craig.reilly@ccreillylaw.com

Justina K. Sessions (*pro hac vice*)  
FRESHFIELDS US LLP  
855 Main Street  
Redwood City, CA 94063  
Telephone: (650) 618-9250  
Fax: (650) 461-8276  
justina.sessions@freshfields.com

Karen L. Dunn (*pro hac vice*)  
Jeannie S. Rhee (*pro hac vice*)  
William A. Isaacson (*pro hac vice*)  
Jessica E. Phillips (*pro hac vice*)  
DUNN ISAACSON RHEE LLP  
401 Ninth Street, NW  
Washington, DC 20004-2637  
Telephone: (202) 240-2900  
kdunn@dirllp.com

Daniel Bitton (*pro hac vice*)  
AXINN, VELTROP & HARKRIDER  
LLP  
55 2nd Street  
San Francisco, CA 94105  
Telephone: (415) 490-2000  
Facsimile: (415) 490-2001  
dbitton@axinn.com

Erin J. Morgan (*pro hac vice*)  
PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064  
Telephone: (212) 373-3387  
Facsimile: (212) 492-0387  
ejmorgan@paulweiss.com

Bradley Justus (VSB # 80533)  
AXINN, VELTROP & HARKRIDER  
LLP  
1901 L Street, NW  
Washington, DC 20036  
Telephone: (202) 912-4700  
Facsimile: (202) 912-4701  
bjustus@axinn.com

*Counsel for Defendant Google LLC*